# **City of Brighton**

500 S. 4th Avenue Brighton, CO 80601



# **Meeting Minutes**

Tuesday, January 5, 2021
6:00 PM
Amended
Virtual Meeting

## **City Council**

MAYOR - GREGORY MILLS
MAYOR PRO TEM - MATT JOHNSTON
COUNCIL MEMBERS:
CLINT BLACKHURST, ADAM CUSHING,
MARK HUMBERT, KRIS JORDINELLI, MARY ELLEN POLLACK,
ANN TADDEO, TIM WATTS

#### 1. CALL TO ORDER

Mayor Mills called the meeting to order at 6:02 p.m.

#### A. Pledge of Allegiance to the American Flag

Councilmember Taddeo led the recitation of the Pledge of Allegiance to the American Flag.

#### B. Roll Call

Present: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst,
Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli,
Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

#### 2. APPROVAL OF REGULAR AGENDA

Mayor Pro Tem Johnston asked to suspend rule 2B to move Item 14A and 11A after Item 5.

Motion by Mayor Pro Tem Johnston, seconded by Councilmember Jordinelli, to approve the Regular Agenda as amended. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst,
Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli,
Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

#### 3. CONSENT AGENDA

- A. Approval of the December 1, 2020 City Council Minutes
- B. Approval of the December 8, 2020 City Council Minutes
- C. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, DESIGNATING THE CITY OF BRIGHTON WEBSITE AS THE PUBLIC PLACE TO POST NOTICES AND AGENDAS OF REGULAR, SPECIAL, AND OTHER OPEN MEETINGS OF THE CITY COUNCIL, ANY BOARD, COMMITTEE, COMMISSION, AUTHORITY, OR LOCAL PUBLIC BODY OF THE CITY, AND DESIGNATING CITY HALL AS THE SECONDARY LOCATION TO POST NOTICES DURING EXIGENT CIRCUMSTANCES OR IN THE EVENT OF AN EMERGENCY THAT PREVENTS THE PUBLIC FROM ACCESSING NOTICES ONLINE. FOR THE CALENDAR YEAR 2021

Resolution No: 2021-01

Motion by Mayor Pro Tem Johnston, seconded by Councilmember Cushing, to approve the Consent Agenda as presented. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst,
Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli,
Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

#### 4. **CEREMONIES**

A. Swearing in New Board and Commission Members

City Clerk Natalie Hoel swore in the new Board and Commission Members.

# 5. PUBLIC INVITED TO BE HEARD ON MATTERS NOT ON THE AGENDA (Speakers limited to five minutes)

#### 14. EXECUTIVE SESSION

Motion by Mayor Pro Tem Johnston, seconded by Councilmember Cushing, to go into Executive Session at 6:12 p.m. for discussion of a personnel matter under C.R.S. Section 24-6-402(4)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees regarding the City Attorney. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst,
Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli,
Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

Mayor Mills reconvened the meeting at 7:01 p.m.

#### 11. GENERAL BUSINESS

A. Discussion and Possible Action as a follow-up to Executive Session Matter

Motion by Mayor Pro Tem Johnston, seconded by Councilmember Humbert, to immediately put the City Attorney on paid administrative leave based on Section 11 of his contract and appointing the Deputy City Attorney as Acting City Attorney immediately and until further notice. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst,
Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli,
Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

#### 6. PUBLIC HEARINGS

A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING A ZONING MAP AMENDMENT OF AN APPROXIMATELY 5.535 ACRE AREA OF LAND, TO BE KNOWN AS THE WATER TREATMENT PLANT EXPANSION PROPERTY, GENERALLY LOCATED IN THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO, TO A ZONING DESIGNATION OF PUBLIC LANDS (PL)

Mayor Mills read the title of the Ordinance into the record.

Mayor Mills opened the public hearing at 7:05 p.m. and City Clerk Natalie Hoel verified the required postings and publications (December 11, 2020 on the City of Brighton website) for this public hearing were completed.

City Manager Jane Bais DiSessa introduced Senior Planner Mike Tylka and Utilities Project Engineer Matt Amidei.

Senior Planner Mike Tylka explained that Utilities Project Engineer Matt Amidei is the applicant and the property owner is the City of Brighton. The property is located to the southwest of the intersection of Bromley Lane and Judicial Center Drive. The property is approximately 5.535 acres comprised of four lots. The property owner desires to expand the City's Water Treatment Facility onto this property and as such, the applicant is requesting a zone change to Public Lands (PL). A zone change is necessary as the applicant desires to use the property for a land use that is not allowed under the

existing zone district. A replat will be required before site development can occur as the applicant desires to combine the existing lots. The replat will be administratively reviewed and approved per the City's Land Use and Development Code. A site plan, also administratively reviewed and approved will be required to ensure the proposed development complies with City Codes and Policies. City Council should use the review criteria outlined in the Land Use and Development Code Section 2.03 B. These include, but are not limited to, alignment with the Comprehensive Plan and other plans and policies of the City, compatibility with the uses and character of the nearby area, ability to be served by the appropriate City and agencies facilities, and will serve a community need that warrants the zone change and any other recommendations by appropriate reviewing entities. As the rezoning is reviewed, it is important to refer back to the criteria in Section 2.03 B to ensure consistency in review.

The property has a current zoning designation of Town Center, which is a commercial designation under the Bromley Park Planned Unit Development (PUD) 2<sup>nd</sup> Amendment. The subject property was annexed in 1985 as part of the Bromley Park Annexation. It is currently platted as four lots, lots 1, 2, 3, and 4 of the Bromley Park No. 204 Subdivision approved in 2002. As part of the Bromley Park PUD rezoning in 2008, it was zoned Town Center (Commercial). The property was to be developed as four commercial pad sites. The City Utilities Department, the applicant, is seeking to rezone the property to allow the expansion of the existing Water Treatment Plant, which is located to the immediate west of the property. It is important for Council to consider the rezoning under the entire scope of uses that could be allowed in the new zone district, not just the plant currently being proposed. The surrounding zone districts to the north, across Bromley Lane is industrial warehousing and distribution uses zoned as the Kmart Distribution Center PUD. To the south is the City's Bike and Skate Park zoned as Public Lands and a small drainage tract zoned as part of the PUD 2<sup>nd</sup> Amendment. To the east is a landscaped open space tract and drainage pond also zoned as part of the Bromley Park PUD 2<sup>nd</sup> Amendment. To the west is the existing Water Treatment Facility zoned as Public Lands.

The future land use portion of Be Brighton, the Comprehensive Plan, has designated this area as appropriate for Mixed-Use Commercial. While the rezoning of the property to Public Lands is not generally compatible with this use designation, the property is surrounded by Public Lands zoning to the west and south. The property is not adjacent to any future commercial development. To the immediate east there is a permanent drainage pond and open space that supports existing development and roadways. To the north, the former Kmart Distribution Center has new tenants and is likely to continue with its current operations for some time. Given these factors, it is unlikely that these 5.535 acres would be deemed prime commercial land. The Comprehensive Plan seeks to expand retail, housing, and employment opportunities throughout the City. The use of this property for a public utilities facility, that will directly support and allow such future development of the City, can be thought of as a way that this rezoning does support the Comprehensive Plan even if it is not in direct alignment with the Future Land Use Map.

Section 4.05 E of the Land Use and Development Code states that "the Public Lands district is specifically intended to promote necessary public services in close proximity to the lands, uses and buildings they support" and that it "is intended to provide public and semi-public facilities and uses in convenient locations, efficient formats, and in a manner that protects the character and context of the surrounding area that the uses serve". The City Code will ensure that the use on the site is permitted only with a design that ensures it fits in with the context and development patterns of the area.

Per the Land Use and Development Code, the City Council in making its decision shall use the following criteria as found in Section 2.03 B:

- 1) The proposal is in accordance with the goals and objectives of the Comprehensive Plan and any other plan, policy or guidance adopted pursuant to the plan.
  - As stated above, the property's rezoning will help support the policies of the plan.
- 2) The proposal will support development in character with existing or anticipated development in the area, including the design of street, civic spaces and other open space; the pattern, scale and format of buildings and sites; and the integration, transitions and compatibility of other uses.

- The development of the land as an allowed use under the Public Lands zone district, along with the City's specific newly adopted development codes, will ensure that the site develops with the context of the area in mind. The surrounding uses are compatible with the use of the property as a City utilities facility and others as allowed in the zone district.
- 3) The City or other agencies have the ability to provide services or facilities that may be necessary for anticipated uses in the proposed district.
  - The rezoning will allow the City to serve new growth if it is developed as an expansion to the existing facility and other uses on the site and surrounding areas can be served.
- 4) The change will serve a community need, amenity or development that is not possible under the current zoning or that was not anticipated at the time of the initial zoning of the property.
  - The use as a public utilities facility for water treatment would serve a community need and it is not possible to develop the property under the existing zoning.
- 5) The recommendations of any professional staff or advisory review bodies.
  - City Utilities staff finds this site as appropriate for a water treatment facility within their system and to expand it. Site development, including buffering and building design, will occur in accordance with the provisions of the Land Use & Development Code.

Regarding public notice, all mailings were sent to property owners within 300' of the proposal as required by Code on December 11, 2020. A letter and a map of the subject area was included in the mailing. A sign was posted on December 11, 2020 adjacent to Bromley Lane and notice was published on the City of Brighton website on December 11, 2020. Staff has not received any public comment or inquiries. Notice was also published on various forms of social media.

Planning Commission heard the request on December 10, 2020 and recommended approval unanimously. Staff and the Development Review Committee finds that the proposal meets the review criteria found in Section 2.03 B of the Land Use & Development Code and is therefore recommending approval of the zoning map amendment of the property to Public Lands.

Mayor Mills asked if anyone in the audience had questions for the applicant, there was none.

Mayor Mills asked if anyone in the audience wished to speak on behalf of or against the request, there was none.

Mayor Mills asked if there were questions from City Council.

Councilmember Jordinelli asked what part of Brighton this water serves. Utilities Project Engineer Matt Amidei explained that the water goes through the treatment process, is pumped to the tank and through the entire system.

Mayor Mills closed the public hearing at 7:22 p.m.

Motion by Councilmember Pollack, seconded by Councilmember Watts, to approve the Ordinance. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst,
Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli,
Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

#### 7. ORDINANCES FOR INITIAL CONSIDERATION

A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AMENDING CERTAIN SECTIONS OF ARTICLE 2-4 OF THE BRIGHTON MUNICIPAL CODE PERTAINING TO CITY COUNCIL

Mayor Mills read the title of the Ordinance into the record.

City Manager Bais DiSessa introduced Acting City Attorney Lena McClelland.

Acting City Attorney Lena McClelland explained that the Ordinance would amend Section 30, 40 and 60 of Article 2-4 of the Brighton Municipal Code. If this Ordinance is approved, there would be a Resolution presented at the next City Council meeting to amend the rule changes to the procedures.

Motion by Councilmember Blackhurst, seconded by Mayor Pro Tem Johnston, to approve the Ordinance. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst,
Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli,
Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

#### 8. ORDINANCES FOR FINAL CONSIDERATION

A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AMENDING CERTAIN SECTIONS OF TITLE 3 OF THE BRIGHTON MUNICIPAL CODE PERTAINING TO THE SALES TAX CODE

Mayor Mills read the title of the Ordinance into the record.

City Manager Bais DiSessa explained that this is the final reading of the Ordinance and there have not been any changes since first reading.

Motion by Mayor Pro Tem Johnston, seconded by Councilmember Taddeo, to approve Ordinance 2350. Motion passed by the following vote:

- Aye: 9 Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst,
  Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli,
  Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts
- B. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING A LEASE AGREEMENT WITH ALMOST HOME FOR CITY-OWNED REAL PROPERTY LOCATED AT 22 SOUTH 4TH AVENUE (THE "HISTORIC CITY HALL"), AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID LEASE AGREEMENT ON BEHALF OF THE CITY

Mayor Mills read the title of the Ordinance into the record.

City Manager Bais DiSessa explained that this is the final reading of the Ordinance and there have not been any changes since first reading.

Senior Management Analyst Nicole Samson and Finance Director Maria Ostrom answered questions from Council regarding:

- •The leases covering the cost of the square footage of the office space and not the entire building.
- The cost of janitorial services and electric service cost \$21.00 for the building.
- •The length of time for the Certificates of Participation.

Motion by Mayor Pro Tem Johnston, seconded by Councilmember Humbert, to approve Ordinance 2351. Motion passed by the following vote:

Aye: 9 - Mayor Mills, Mayor Pro Tem Johnston, Councilmember Blackhurst,
Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli,
Councilmember Pollack, Councilmember Taddeo, and Councilmember Watts

C. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING A LEASE AGREEMENT WITH ROCKY MOUNTAIN QUARTER HORSE ASSOCIATION FOR CITY-OWNED REAL PROPERTY LOCATED AT 22 SOUTH 4TH AVENUE (THE "HISTORIC CITY HALL"), AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID LEASE AGREEMENT ON BEHALF OF THE CITY

Mayor Mills read the title of the Ordinance into the record.

City Manager Bais DiSessa explained that this is the final reading of the Ordinance and there have not been any changes since first reading.

Senior Management Analyst Nicole Samson, Finance Director Maria Ostrom and City Manager Bais DiSessa answered questions from Council regarding:

- •The leases all belonging to non-profits that give scholarships.
- •The tenants receiving warning that the rents would be rising next year.
- •The person responsible for leasing of the property.
- •The leases being valid for a year even if someone is hired to take care of the leasing.
- •The City not marketing open space in Historic City Hall at this time.
- •The \$21.00 based on the open space cost or the price going down if more of the building is leased.
- The timeline to hire a consultant.

Motion by Councilmember Blackhurst, seconded by Councilmember Taddeo, to approve Ordinance 2352. Motion passed by the following vote:

- Aye: 7 Mayor Mills, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, Councilmember Taddeo, and Councilmember Watts
- No: 2 Mayor Pro Tem Johnston, and Councilmember Pollack
- D. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING A LEASE AGREEMENT WITH AMERICAN HIGHLAND CATTLE FOR CITY-OWNED REAL PROPERTY LOCATED AT 22 SOUTH 4TH AVENUE (THE "HISTORIC CITY HALL"), AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID LEASE AGREEMENT ON BEHALF OF THE CITY

Mayor Mills read the title of the Ordinance into the record.

Motion by Councilmember Taddeo, seconded by Councilmember Jordinelli, to approve Ordinance 2353. Motion passed by the following vote:

- Aye: 7 Mayor Mills, Councilmember Blackhurst, Councilmember Cushing, Councilmember Humbert, Councilmember Jordinelli, Councilmember Taddeo, and Councilmember Watts
- No: 2 Mayor Pro Tem Johnston, and Councilmember Pollack

#### 9. RESOLUTIONS

Mayor Mills called for a break at 8:07 p.m.

Mayor Mills reconvened the meeting at 8:19 p.m.

#### 10. UTILITIES BUSINESS ITEMS

#### Resolutions

A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ACCEPTING CHANGE ORDER #2 OF DURAN EXCAVATING INC., AND APPROVING AMENDMENT #2 TO THE CONTRACT FOR CORE CITY PIPE REPLACEMENT, PROJECT #20-006237, TO DURAN EXCAVATING INC. UP TO THE REQUESTED AMOUNT OF ONE HUNDRED ELEVEN THOUSAND FIVE HUNDRED FORTY-NINE DOLLARS AND FIFTY-NINE CENTS (\$111,549.59), AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO SIGN AMENDMENT #2 ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO

Mayor Mills read the title of the Resolution into the record.

City Manager Bais DiSessa introduced Utility Engineering Manager Roy Gallea.

Utility Engineering Manager Roy Gallea explained that City Council awarded an approximate \$2.4M contract to Duran Excavating on June 16, 2020 and contracts were signed on June 29, 2020. The annual Core City Pipe Replacement Program upgrades existing infrastructure to current standards in established neighborhoods. The core city area has undersized and aging infrastructure consisting of mostly 4" and 6" lines. This is the second year of the project the first year was 2018. In 2018, pipes were replaced between Jessup Street and Bromley Lane on Fulton Street, 1st Avenue and 2nd Avenue. These were existing 4" and 6" lines and there were many water quality complaints in this area. The 2020 pipe replacement project was chosen because there were mostly 4" lines in the area. There is also insufficient looping, frequent breaks and low pressures in the area. It is the hope of staff that this program will receive continued funding in the future. The program has had a real effect on the residents and the community. The benefits of the replacement program include improved water quality by replacing iron pipes, enlarge the size of the pipes so there is increased flow, the new pipes will be a minimum of 8", replace old valves that have lost functionality, increased fire protection and improve structural integrity since the existing pipes are prone to breaks.

The 2020 project mitigated issues for 148 households and businesses in the Core City, including Brighton High School. Twelve residential blocks and associated side streets were improved with new piping, new valves and new fire hydrants greatly improving safety and reliability along with water quality. The goal was to get as much done as possible within the budget available and the weather restricted time limit. The contract has some changes because there were increased asphalt and concrete quantities needed to improve driving quality. The associated two-year warranty will be closely followed by the Public Works Street Rehabilitation Program. The Core City Project Improvements provide an opportunity for Utilities and Public Works to work together to facilitate the ongoing street upgrades for Public Works. New hydrants were installed for improved fire protection and pressures. There were some field repairs needed for unanticipated water line failures during construction activities.

The cost breakdown of the 2020 Pipe Replacement contract are as follows:

Initial Contract Amount: \$2,399,833.40
 Previous Changes \$12,075.00
 Final Change Order: \$111,549.59
 Final Contract Amount: \$2,523,507.99

The new fire hydrants were installed to accommodate higher pressures and flows and should have been part of the original contract. Many of the existing hydrants were not properly seated and required replacement. The largest cost overrun was for the asphalt paving improvements. During excavation, many areas staff encountered had thin and unstable existing asphalt, which was stabilized and strengthened for public safety. These improvements helped facilitate the Public Works future rehabilitation project. There were some cave-in sections where the existing sandy soil did not hold structurally. Staff recommends approval of a final change order for \$111,756.59. Utility Engineering Manager Gallea answered questions from Council regarding:

- •There being any Metro Districts attached to the core city.
- •Residents in the core city ever paid for pipes in Ward 1 development past 2008.

- •Staff having to shut off water for eight hours per day.
- •The water being shut off every day.
- •The total project area.
- •The PVC pipes not getting tuberculation like the iron pipes

Motion by Councilmember Blackhurst, seconded by Councilmember Humbert, to approve Resolution 2021-02. Motion passed by the following vote:

Aye: 7 - Mayor Mills, Councilmember Blackhurst, Councilmember Cushing,
Councilmember Humbert, Councilmember Jordinelli, Councilmember Pollack,
and Councilmember Taddeo

No: 2 - Mayor Pro Tem Johnston, and Councilmember Watts

#### 11. GENERAL BUSINESS

#### A. Discussion and Possible Action as a follow-up to Executive Session Matter

This item was moved after Item 5.

#### B. Review of COVID Statistics

Assistant City Manager Michael Martinez reported that the CARES funding has run out and presented an update on the COVID statistics for the State, County, City and the Tri-County Health Department.

#### 12. REPORTS

#### A. By the Mayor

Mayor Mills participated in the parade with Santa.

#### B. By Department Heads

Director of Communications and Engagement Kristen Chernosky announced that tomorrow is Andy Bergey's last day. Andy has worked with the City for fourteen years as the Media Services Coordinator.

#### C. By the City Attorney

#### D. By the City Manager

City Manager Bais DiSessa thanked Andy Bergey for all of his work for the City. City Manager Bais DiSessa participated in the parade with Santa, thanked the staff and community volunteers for their work on the parade and presented Council with the quarterly report.

#### 13. REPORTS BY COUNCIL ON BOARDS & COMMISSIONS

Councilmember Cushing attended a tour of the Housing Authority projects with Housing Authority Executive Director Joseph Espinosa and participated in the parade with Santa.

Councilmember Humbert participated in the parade with Santa.

Councilmember Blackhurst thanked Andy Bergey and stated that his leaving is a loss for the City. Councilmember Blackhurst attended a Youth Commission event.

Councilmember Taddeo thanked Andy Bergey for his service to the City.

Councilmember Watts participated in the parade with Santa, attended the Youth Commission event, the Senior Advisory Board meeting and thanked Andy Bergey.

Mayor Pro Tem Johnston reported that he has been working on the Sports Complex project.

## 14. EXECUTIVE SESSION

This item was moved after Item 5.

## 15. ADJOURNMENT

Mayor Mills adjourned the meeting at 9:33 p.m.

CITY OF BRIGHTON, COLORADO

Gregory Mills, Mayor

ATTEST:

Natalie Hoel, City Clerk

Approval Date